

Message Text

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TAGS: PGOV, ELAB, UY

SUBJ: INSTITUTIONAL ACTS AFFECT PUBLIC EMPLOYEES

AND THE JUDICIARY: PART I

REF: 76 MONTEVIDEO 3259

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1. SUMMARY. FURTHER INSTITUTIONAL CHANGES IN THE GOVERNMENT OF URUGUAY WERE INSTITUTED WITH THE RECENT PROMULGATION OF INSTITUTIONAL ACTS NO. 7 AND 8 AFFECTING PUBLIC EMPLOYEES AND THE JUDICIARY. ACT NO. 7, THE SUBJECT OF THIS CABLE, PROVIDES THE GOVERNMENT WITH THE MEANS TO TERMINATE THE EMPLOYMENT OF GOVERNMENT WORKERS WHO UP UNTIL NOW HAVE BEEN VIRTUALLY GUARANTEED LIFE-TIME JOB SECURITY. ACT NO. 8 REORGANIZES THE JUDICIAL SYSTEM AND WILL BE THE SUBJECT OF A SEPARATE CABLE. END SUMMARY.

2. BACKGROUND. ACCORDING TO A SPECIAL CENSUS, TAKEN IN AUGUST 1969 UNDER THE DIRECTION OF THE NATIONAL OFFICE OF THE CIVIL SERVICE, PUBLIC (EXCLUDING THE ARMED FORCES) LIMITED OFFICIAL USE

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EMPLOYMENT IN URUGUAY WAS PUT AT 213,000 WORKERS OR APPROXIMATELY 23 PERCENT OF THE TOTAL EMPLOYED LABOR FORCE. LESS THAN HALF OF THIS NUMBER WERE EMPLOYEES OF THE EXECUTIVE, LEGISLATIVE, AND JUDICIAL BRANCHES OF THE CENTRAL GOVERNMENT AND OF THE DEPARTMENTAL (MUNICIPAL) GOVERNMENTS. THE REMAINDER INCLUDED TEACHERS AND OTHER EMPLOYEES OF THE PUBLIC SCHOOL SYSTEM AND EMPLOYEES OF TEN GOVERNMENT OWNED INDUSTRIES

OR PUBLIC UTILITIES. THE LARGE NUMBER OF PUBLIC EMPLOYEES WAS IN PART ATTRIBUTABLE TO THE ECONOMIC STAGNATION OF THE DECADES OF THE FIFTIES AND SIXTIES WHICH IN TURN LED TO THE SHORT TERM EXPEDIENT APPLIED BY SUCCESSIVE GOVERNMENTS TO INCREASE EMPLOYMENT IN THE PUBLIC SECTOR IN ORDER TO OFFSET THE LACK OF PRIVATE EMPLOYMENT. A WORLD BANK REPORT NOTED RECENTLY "...ALTHOUGH THESE POLICIES HAD THE SALUTARY EFFECT OF MINIMIZING OPEN UNEMPLOYMENT AND ABJECT POVERTY, THEY ALSO RESULTED IN A SUBSTANTIAL AMOUNT OF UNDEREMPLOYMENT (UNDER UTILIZATION) IN GOVERNMENT AGENCIES AND A PERSONNEL WAGE AND SOCIAL SECURITY BURDEN WHICH HAS PLAYED A MAJOR ROLE IN THE COUNTRY'S RECURRENT FISCAL CRISES..." ATTEMPTS TO REDUCE THE PUBLIC PAYROLL THROUGH ATTRITION HAVE APPARENTLY BEEN TO LITTLE AVAIL SINCE THE GOVERNMENT, IN THE PREAMBLE TO INSTITUTIONAL ACT NO. 7, CALCULATED PUBLIC EMPLOYMENT AT APPROXIMATELY 159,000 PERSONS TODAY. (NOTE: THIS FIGURE PROBABLY EXCLUDES APPROXIMATELY 20,000 POLICE INCLUDED IN THE 1969 CENSUS TOTAL. THUS EMPLOYMENT --IF ONE ASSUMES THE FIGURES ARE COMPARABLE--WAS CUT BY ONLY ABOUT 34,000 IN THE LAST SIX AND ONE HALF YEARS.) END UNCLASSIFIED

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3. EVEN THE PRESENT AUTHORITARIAN GOVERNMENT SEEMED UNABLE OR UNWILLING TO SIGNIFICANTLY REDUCE THE PUBLIC PAYROLL. IN LARGE PART THIS LACK OF ACTION WAS PROBABLY THE RESULT OF A LIMITED OFFICIAL USE

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SYSTEM OF EMPLOYMENT SECURITY WHICH VIRTUALLY GUARANTEED LIFETIME EMPLOYMENT TO ALL GOVERNMENT EMPLOYEES WHETHER THEY WERE NEEDED OR NOT AND WHETHER THEY WERE COMPETENT OR NOT. PREVIOUS LEGISLATION HAD MADE IT EXTREMELY DIFFICULT AND COSTLY, IF NOT IMPOSSIBLE, TO FIRE ANY GOVERNMENT EMPLOYEE. AT BEST THE WORST EMPLOYEES COULD BE PUT ON AN "AVAILABLE" LIST AND SENT HOME. THEY CONTINUED, HOWEVER, TO RECEIVE THEIR SALARIES UNTIL THE TORTUOUS LEGAL PROCESS TO FINALLY FIRE THEM COULD BE COMPLETED. THE PROCESS COULD TAKE YEARS WITH NO GUARANTEE THAT THE EMPLOYEE WOULD FINALLY BE TERMINATED. END LIMITED OFFICIAL USE

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4. UNDER INSTITUTIONAL ACT NO. 7 THIS SYSTEM HAS BEEN RADICALLY CHANGED. THE ACT ALSO USES THE MECHANISM OF DECLARING AN EMPLOYEE "AVAILABLE" IN ORDER TO EVENTUALLY ACHIEVE TERMINATION. THE EMPLOYEE WHO MIGHT BE PUT IN THIS STATUS WILL IMMEDIATELY CEASE WORKING, BUT WILL CONTINUE TO RECEIVE A SALARY FOR A STIPULATED PERIOD OF TIME. THOSE EMPLOYEES SELECTED FOR THE AVAILABLE LIST FOR REASONS OF GOVERNMENTAL REORGANIZATION WILL RECEIVE FULL PAY FOR ONE YEAR

AND HALF PAY FOR AN ADDITIONAL SIX MONTHS. THOSE SELECTED OUT FOR REASONS OF THE "PUBLIC INTEREST" OR THE "BETTERMENT OF SERVICE" WILL RECEIVE FULL SALARY FOR SIX MONTHS AND HALF SALARY FOR AN ADDITIONAL SIX MONTHS. AFTER THESE PERIODS, IF THE EMPLOYEE HAS NOT BEEN REINCORPORATED INTO THE PUBLIC SERVICE, TERMINATION IS AUTOMATIC. UNDER THE ACT THERE APPEARS TO BE NO APPEAL TO A DECISION TO PLACE AN EMPLOYEE ON THE AVAILABLE LIST OR TO TERMINATION. REGULATIONS, HOWEVER, HAVE NOT BEE ISSUED AND IT IS POSSIBLE BUT NOT LIKELY THAT SOME APPEAL PROCESS COULD BE DEVELOPED. END UNCLASSIFIED.

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5. COMMENT: WHILE THE INSTITUTIONAL ACT MAY BE INTENDED
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TO REDUCE GOVERNMENT PAYROLLS FOR REASONS OF ECONOMY OR TO WEED OUT INCOMPETENTS AND OTHER MISFITS, IT ALSO HAS THE POTENTIAL FOR ABUSE. UNLESS SOME TYPE OF EFFECTIVE APPEAL PROCESS IS WRITTEN INTO THE REGULATIONS, ALL GOVERNMENT EMPLOYEES ARE SUBJECT TO TERMINATION FOR ANY NUMBER OF REASONS INCLUDING THAT OF PAST ASSOCIATION WITH CERTAIN POLITICAL GROUPINGS OR DISAGREEING WITH THE POLITICAL PHILOSOPHY OR THE POLICIES OF THE CURRENT REGIME. SINCE PUBLIC SERVICE EMPLOYEE UNIONS ARE EITHER NON-EXISTENT OR WEAK, PROTECTION IN NUMBERS IS NOT AVAILABLE. SOME ELEMENTS IN THE GOVERNMENT AND MILITARY ALSO HARBOR A DEEP SUSPICION OF THE PERMANENT BUREAUCRACY AND THE EDUCATIONAL ESTABLISHMENT DUE TO THEIR BELIEF THAT MANY OF THOSE EMPLOYEES ARE COMMUNISTS.
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